

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

JENNIFER L. MILLER,)	
)	
Plaintiff,)	
)	
v.)	
)	
MICHAEL J. ANDERSON, <i>et al.</i> ,)	Judge John R. Adams
)	
Defendants,)	Case No. 5:20-cv-01743-JRA
)	
and)	
)	
FIRSTENERGY CORP.,)	
)	
Nominal Defendant.)	

**THE FIRSTENERGY DEFENDANTS' MOTION TO DISMISS
THE INTERVENORS' VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT**

The FirstEnergy Defendants, through their undersigned counsel, hereby move this Court to dismiss the Intervenors' Verified Shareholder Derivative Complaint (the "Complaint").¹

As set forth in the accompanying memorandum of law, the FirstEnergy Defendants respectfully request that the Court dismiss the Complaint pursuant to Federal Rules of Civil Procedure 12(b)(6) and 23.1. *First*, the Complaint fails to plead the elements of a claim under Section 14(a) of the Securities Exchange Act of 1934, which is the Complaint's sole basis for subject-matter jurisdiction. As a result of the dismissal of that claim, the Court should decline to exercise supplemental jurisdiction over the Complaint's pendent state-law claims. *Second*,

¹ The "FirstEnergy Defendants" are individual defendants Michael J. Anderson, Steven J. Demetriou, Julia L. Johnson, Donald T. Misheff, Thomas N. Mitchell, James F. O'Neil, III, Christopher D. Pappas, Sandra Pianalto, Luis A. Reyes, Leslie M. Turner, Steven E. Strah, and nominal defendant FirstEnergy Corp.

Intervenors lack standing, due to their unexcused failure to submit a pre-suit demand to the board of directors of FirstEnergy Corp.

This motion is also supported by the declaration of Geoffrey J. Ritts, one of the attorneys for the FirstEnergy Defendants.

Dated: June 17, 2021

Respectfully submitted,

/s/ Geoffrey J. Ritts

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed electronically on June 17, 2021. Notice of this filing will be sent to all electronically registered parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Marjorie P. Duffy

Marjorie P. Duffy (0083452)

One of the Attorneys for Defendants Michael J. Anderson, Steven J. Demetriou, Julia L. Johnson, Donald T. Misheff, Thomas N. Mitchell, James F. O'Neil, III, Christopher D. Pappas, Sandra Pianalto, Luis A. Reyes, Leslie M. Turner, Steven E. Strah, and Nominal Defendant FirstEnergy Corp.